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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,853	03/25/2004	Eric G. Hull	427600700090	6657

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EXAMINER
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ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,853	HULL, ERIC G.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Angel R. Estrada	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26 is/are allowed.
- 6) ☒ Claim(s) 21, 27-31, 33-40 and 43 is/are rejected.
- 7) ☒ Claim(s) 22, 23, 32, 41, 42 and 44-48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 33 is objected to because of the following informalities:

Claim 33 line 1, change "The enclosure" for --The combination--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27, 28, 31, 34-36, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Logsdon (US 4,742,585).

Regarding claim 27, Logsdon discloses in a poured concrete construction (see figure 1) including a concrete form having a form surface against which concrete is pourable; an electrical enclosure (12) molded of plastic material (column 3 lines 1-7, also notice the enclosure cross section hatching, it resembles a plastic material), said enclosure (12) having a peripheral wall with front (42 for illustration purposes only) and rear surfaces (16 for illustration purposes only), said enclosure (12) having a cavity within said peripheral wall between said front and rear surfaces (see figures 1 and 2), said enclosure (12) having front (see figure 1) and rear entrance openings (defined by knockout 30, column 3 lines 26-30) to said cavity at said front and rear surfaces of said

peripheral wall (see figures 1 and 2); said enclosure (12) being positioned with said front surface thereof adjacent to or engaging said front surface (see figure 1), and said enclosure having a removable cover (14) of plastic material (column 3 lines 1-7) closing said front entrance opening against entrance of concrete in which the enclosure is submerged when the concrete is poured against the form surface (column 3 lines 3-14).

Regarding claim 28, Logsdon discloses the combination wherein said removable cover (14) has an outer cover surface that is recessed within said cavity from said front surface of said peripheral wall (see figure 2).

Regarding claim 31, Logsdon discloses the combination wherein said cover (14) has a cover inner surface with a plurality of ribs (50) molded thereon (column 4 lines 13-16).

Regarding claim 34, Logsdon discloses an electrical enclosure (see figure 1) for use in poured concrete construction comprising: an electrical enclosure (12) molded of plastic material (column 3 lines 1-7, also notice the enclosure cross section hatching it resembles a plastic material); said enclosure (12) having a peripheral wall with front and rear surfaces (see figures 1 and 2), said enclosure (12) having a cavity within said peripheral wall between said front and rear surfaces (see figures 1 and 2), said enclosure (12) having front (see figure 1) and rear entrance openings (30, column 3 lines 26-30) to said cavity at said front and rear surfaces of said peripheral wall (see figures 1 and 2); said enclosure (12) being positionable with said front surface thereof adjacent to or engaging an inside surface of a concrete form (see figure 1); and said enclosure (12) having a removable cover (14) of plastic material (column 3 lines 1-7)

closing said front entrance opening for sealing said front entrance opening against entrance of poured concrete into said cavity (column 3 lines 1-9).

Regarding claim 35, Logsdon discloses the enclosure (see figure 1) wherein said peripheral wall has a peripheral inner surface that extends between said front and rear surfaces and form the periphery of said cavity (see figures 1 and 2), and said removable cover (14) having an outer cover surface that is flush with or recessed within said cavity from said front surface of said peripheral wall (see figures 1 and 2).

Regarding claim 36, Logsdon discloses the enclosure (see figure 1) wherein said cover (14) outer surface is recessed within said cavity from said front surface of said peripheral wall (see figures 1 and 2).

Regarding claim 39, Logsdon discloses the enclosure (see figure 1) wherein said peripheral wall has an inner wall surface (see figure 2) and said cover (14) is separably attached to said peripheral wall at said inner wall surface (see figure 2).

Regarding claim 40, Logsdon discloses the enclosure (see figure 1) wherein said cover (14) has a cover inner surface with a plurality of ribs (50) molded thereon (column 4 lines 13-16).

3. Claims 21, 27, 29, 30, 34, 35, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Logsdon (US 4,742,585, alternate interpretation\*).

Regarding claim 21, Longston discloses an electrical enclosure (12) for use in poured concrete construction comprising an electrical enclosure (12) molded of plastic material (column 3 lines 1-7, also notice the enclosure cross section hatching, it

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resembles a plastic material), said enclosure (12) having a peripheral wall with front (18) and rear surfaces (20); said enclosure (12) having a cavity within said peripheral wall between said front and rear surfaces (18,20, see figure 1), said peripheral wall having an inner surface that extends between said front and rear surfaces (18,20) and also forms the periphery of said cavity; said enclosure (12) having front (column 3 lines 26-30, see figure 1; defined by knockout 30) and rear entrance openings (see figure 1 defined by knockout 30) to said cavity at said front and rear surfaces (18,20) of said peripheral wall (see figure 1); said peripheral wall having a plurality of spaced-apart enlarged bosses (38) with fastener receiving holes (40) therein adjacent said front opening (30, see figure 1); said enclosure (12) being positionable with said front surface (18) thereof adjacent to or engaging an inside surface of a concrete form (column 1 lines 24-27) ; a rear cover (30) attached against said rear surface (20) and closing said rear opening (see figure 1); a removable knockout cover (30) of plastic material closing said front entrance opening (see figure 1) for sealing said front entrance opening against entrance of poured concrete into said cavity (see figure 1), said knockout cover (30) having a thickness; and said removable knockout cover (30) being molded integrally in one-piece with said peripheral wall and being attached thereto to said peripheral wall inner surface by a frangible web (see figure 3) that extends around the periphery of said knockout cover and has a web thickness that is less than said knockout cover thickness (see figure 1 or column 3 lines 24-30).

Regarding claim 27, Logsdon discloses in a poured concrete construction (see figure 1) including a concrete form having a form surface against which concrete is pourable; an electrical enclosure (12) molded of plastic material (column 3 lines 1-7, also notice the enclosure cross section hatching, it resembles a plastic material), said enclosure (12) having a peripheral wall with front and rear surfaces (18,20), said enclosure (12) having a cavity within said peripheral wall between said front and rear surfaces (18,20; see figures 1 and 2), said enclosure (12) having front (defined by knockouts 30) and rear entrance openings (defined by knockout 30) to said cavity at said front and rear surfaces (18, 20) of said peripheral wall (see figures 1 and 2); said enclosure (12) being positioned with said front surface (18) thereof adjacent to or engaging said form surface (see figure 1), and said enclosure (12) having a removable cover (30) of plastic material (column 3 lines 1-7 or see figure 3) closing said front entrance opening against entrance of concrete in which the enclosure is submerged when the concrete is poured against the form surface (see figures 1 and 2).

Regarding claim 29, Logsdon discloses the combination wherein said cover (30) is a knockout (column 3 lines 25-30) that is molded integrally with said peripheral wall (see figures 2 or 3).

Regarding claim 30, Logsdon discloses the combination wherein said peripheral wall (see figure 1) has an inner wall surface that intersect said front surface (18) of said peripheral wall and said cover (30) is separable attached to said peripheral wall as said inner surface by a frangible web (see figure 3) that is formed by a groove that extends

around said cover (30) between said cover and said inner wall surface of said peripheral wall (see figure 3).

Regarding claim 34, Logsdon discloses an electrical enclosure (see figure 1) for use in poured concrete construction comprising: an electrical enclosure (12) molded of plastic material (column 3 lines 1-7, also notice the enclosure cross section hatching it resembles a plastic material); said enclosure (12) having a peripheral wall with front and rear surfaces (see figures 1 and 2), said enclosure (12) having a cavity within said peripheral wall between said front and rear surfaces (18, 20; see figures 1 and 2), said enclosure (12) having front (defined by knockout 30) and rear entrance openings (defined by knockout 30; see figure 1) to said cavity at said front and rear surfaces (18,20) of said peripheral wall (see figures 1 and 2); said enclosure (12) being positionable with said front surface (18) thereof adjacent to or engaging an inside surface of a concrete form (see figure 1); and said enclosure (12) having a removable cover (30) of plastic material (column 3 lines 1-7 or see figure 3) closing said front entrance opening for sealing said front entrance opening against entrance of poured concrete into said cavity (see figures 1 and 3).

Regarding claim 35, Logsdon discloses the enclosure (see figure 1) wherein said peripheral wall has a peripheral inner surface that extends between said front and rear surfaces (18,20) and form the periphery of said cavity (see figures 1 and 2), and said removable cover (30) having an outer cover surface that is flush with or recessed within said cavity from said front surface (18) of said peripheral wall (see figures 3).



Regarding claim 37, Logsdon discloses the enclosure, wherein said cover (30) being a knockout cover (column 3 lines 25-30) that is molded integrally with said peripheral wall and is attached to said inner surface of said peripheral wall by a frangible web (see figure 3).

Regarding claim 38, Logsdon discloses the enclosure (10), wherein said cover (30) has a peripheral groove therein adjacent said inner surface of said peripheral wall to define said frangible web (see figure 3).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logsdon (US 4,742,585).

Regarding claims 33 and 43, Logsdon discloses the combination wherein said peripheral wall has a wall thickness (see figure 2) and said cover (14) has a cover thickness; but Logsdon lacks said cover thickness being less than said wall thickness. It would have been an obvious matter of design choice to make the cover thickness less than said wall thickness, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

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Furthermore, it would have been an obvious matter of design choice to make the cover thickness less than said wall thickness, since applicant has not disclosed that solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with thickness of Logsdon.

***Allowable Subject Matter***

5. Claims 24-26 are allowed.

The following is an examiner's statement of reasons for allowance: The primary reason for the indication of the allowability of claims 24-26 is:

Regarding claims 24-26, the prior art does not teach or fairly suggest in combination with the other claimed limitations said enclosure having a removable cover of plastic material that does not overlie said fastener receiving holes and closes said front entrance opening against entrance of poured concrete into said cavity; and barriers attached to said box for closing said fastener receiving holes against entrance of concrete.

This limitation was found in claims 24-26, and is neither disclosed nor taught by the prior art of record, alone or in combination.

6 Claims 22, 23, 32, 41, 42 and 44-48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 22, 23, 32, 41, 42 and 44-48 are:

Regarding claim 22, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said enclosure including a box and an adapter that are secured together and said rear cover is on said box and said removable knockout cover is on said adapter.

Regarding claim 23 the prior art does not teach or fairly suggest in combination with the other claimed limitations of said knockout cover further including a plurality of spaced runners of increase thickness extending across said groove between said knockout cover and said peripheral wall to provide flow of plastic across said groove between said knockout cover and said peripheral wall during molding of said enclosure.

Regarding claim 32, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said peripheral wall having a plurality of spaced-apart enlarged bosses projecting into said front entrance opening and said removable cover does not overlie said bosses.

Regarding claims 41 and 42, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said peripheral wall having a plurality of spaced-apart enlarged bosses projecting into said front entrance opening and said removable cover does not overlie said bosses.

Regarding claims 44 and 45, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said enclosure being an adapter having outwardly extending attachment tabs extending outwardly from said peripheral wall

adjacent said rear surface thereof for receiving fasteners to attach said adapter to a molded plastic box and for receiving fasteners to attach said adapter to a concrete form with said front surface engaging a form surface.

Regarding claims 46-48, the prior art does not teach or fairly suggest in combination with the other claimed limitations of said enclosure including fastener receiving holes adjacent said front opening, said cover being configured so that it does not overlie said holes, and barrier closing said fastener receiving holes against entrance of concrete.

These limitations were found in claims 22, 23, 32, 41, 42 and 44-48, and are neither disclosed nor taught by the prior art of record, alone or in combination.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 27-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Curtis et al (US 4,331,832) and Reiker (US 5,661,264) disclose an electrical enclosure for concrete applications. Lewin (US 1,952,719) discloses an enclosure with a knockout cover.

10. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AE

March 28, 2005

*Dean A. Reichard* 04/15/05  
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